



Planning Department

TOWN OF ACTON
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MEMORANDUM

To: Planning Board **Date:** November 19, 2007
From: Roland Bartl, AICP, Planning Director *R.B.*
Subject: Potential Zoning Amendments for 2008 Annual Town Meeting

A. Acton Open Door Theater/ Dragonfly Theater

Attached is a proposal by the Dragonfly Theater for the potential zoning change at two locations in Acton. The proponent will attend the meeting. I suggest the Board take up this item first. Please see separately Town Counsel correspondence in the matter. Town Counsel/client correspondence is confidential and you will find it in a separate docushare folder from the rest of the meeting package.

B. Municipal Exemption

This has been discussed briefly with the Design Review Board (DRB) at a previous meeting. This is important to the Selectmen and a Board of Selectmen member would like to discuss this with the Planning Board at a later meeting to continue that conversation. Unfortunately, no member is available on December 11th. The subject came up in connection with questions about the proper placement of the North Acton Fire Station building.

Currently, the Acton zoning bylaw contains a municipal use exemption, i.e. municipal uses are allowed in every zoning district. There are no exemptions for municipal uses, sites, or building from the zoning bylaw's dimensional rules.

Municipal exemption could be achieved through a blanket exemption, with or without a public zoning review (i.e. special permit) if the general public process for Town capital projects is deemed insufficient; or through the creation of municipal use district that would include all Town facilities and properties, but may be at the beginning as small as, for instance, the fire station lot in North Acton. For a municipal use district, the zoning bylaw could, but does not have to prescribe separate dimensional standards, standards for public review, and procedures to waive standards.

C. Restaurant Outdoor Seating

This has been discussed with the Design Review Board (DRB) at a previous meeting. The DRB, with approval from the Board of Selectmen, has submitted the attached e-mail to this department

(e-mail from Ann Sussman dated November 08, 2007), which contains the specific zoning amendment proposal.

From this, I have prepared Draft Article B, attached, following format and usual presentation of zoning articles at Town Meeting.

D. Light Industrial 1 District – Increase of FAR Ceiling to 0.20

The EDC has met off and on with a couple of property owners in the LI-1 District (area at Post Office Square) for nearly a year to understand their concerns over the present FAR limit, and with Planning staff to study the implications and benefits of a possible increase in the FAR limit. Resulting from this is the attached EDC recommendation to the Board of Selectmen, which the Selectmen accepted on November 19 and approved for further consideration by the Planning Board (see November 14 memo from EDC to Board of Selectmen and Planning Board). Draft Article C, attached would implement the recommendation. I will defer to Ed Starzec to introduce this item.

E. Senior Residence – Off-Site Affordable Units Option/Affordable Housing Contribution

The attached draft zoning article E would provide a generic basis for the Planning Board to allow off-site affordable family housing or to accept money to the Town's affordable housing fund as alternatives to on-site affordable units. I will not be able to provide any more specifics that would define off-site housing standards or minimum levels of contributions to the housing fund. Such standards may have their pitfalls, and may be more prudent in any case to leave it to the Board to deal with specific cases as they arise. However, the Planning Board could ask the ACHC for suggestions and input at this time.

F. Wireless Facilities – Rewrite

The latest version of a draft article is attached as Draft Article F. I will defer to Bruce Reichlen and Alan Mertz to introduce this item.

G. Clean-up – Zoning Enforcement

The recent departure of the Building Commissioner has made it clear that the Town needs to have a back-up plan for zoning enforcement. While there is currently a temporary building commissioner appointed, his experience in zoning enforcement is practically none. The role currently falls unofficially to the Planning Director to advise the Building Commissioner on all zoning matters. See attached Draft Article G – Part A.

H. Clean-up - Two-Family Buildings in NAV

Two-family use was introduced a few years ago as a separate land use category. The NAV district prohibits two-family dwellings. All other village districts (SAV, EAV, and WAV), plus the multi-family districts, and the Village Residential district around West Acton center allow them. There is no reason – other than “oops, we forgot” – to treat NAV differently with respect to this land use type. See attached Draft Article G – Part B.

I. Re-lettering Signs

There is an inconsistency in section 7 – Signs and Advertisement Devices regarding the definition of “Erecting” a sign, and whether it includes re-lettering of an existing sign or not. The implication of the including it is that re-lettering would trigger the full force of the bylaw's regulations and standards meaning that re-lettering of non-confirming signs would in most cases trigger the replacement of the sign. The definition of “Erecting” a sign is in section 7.2.5 of the zoning bylaw and it does not include re-lettering, repainting etc. However, section 7.4.4 wants to

make re-lettering equivalent to "Erecting" a sign with several noted exceptions. I need to check with Counsel which way to go on this. But, I want to understand the Board's preference first, even if case law may not give it much weight. We will find out. There is nothing drafted at this time.

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Bernard Haan
The Dragonfly Theater
524 Main Street
Acton, Massachusetts 01720

December 7, 2007

To the Town of Acton Planning Board:

A proposal is made to build The Dragonfly Theater in memory of longtime Acton resident Jennifer Doran Haan. Jennifer, born and raised in Acton, was leading a vibrant family life when she died in April 2007. The primary purpose of the theater is to provide a home for Jennifer's beloved Open Door Theater, a non-profit theater company performing in Acton since 1980. Open Door's productions include many children as well as children and adults with special needs. The theater will offer space for other non-profit performance organizations to deliver programs to the community of Acton. The Dragonfly Theater project has funding and community support.

Two properties are under consideration as a building site for The Dragonfly Theater with each property requiring a zoning change. The first is at **524 Main Street**, owned by Bernard Haan and Thomas Cates and currently zoned LI-1. A zoning change to SPS or "YES" for commercial entertainment is requested to allow this site to be developed for the theater. The second property under consideration is **484 Great Road** currently zoned R8. A zoning change to LB (Limited Business) with an allowance for SPS will allow the project to pursue purchase of the land from Sherrill R. Gould of Littleton. This is a large piece of land (approximately 15 acres) and the zoning change would only be needed on the portion of the land near Great Road.

DRAFT ARTICLE C
(Two-thirds vote)

AMEND ZONING BYLAW
OUTDOOR RESTAURANT SEATING

To see if the Town will vote to amend the zoning bylaw, Section 3, Use Definitions, by deleting section 3.5.5, Restaurant, and replacing it with a new section 3.5.5, Restaurant, as follows:

- 3.5.5 Restaurant – Establishment where food and beverages are sold within a BUILDING to customers for consumption 1) at a table or counter, or 2) in an adjacent outdoor space that does not obstruct a public way, sidewalk, walkway, vehicular parking, or a driveway, or 3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or 4) any combination of the above. In the OP-2 and the TD District, the minimum square footage for an individual restaurant shall be 5,000 square feet measured in NET FLOOR AREA.

[Note – Section 3.5.5 currently reads as follows:

3.5.5 Restaurant – Establishment where food and beverages are sold within a BUILDING to customers for consumption 1) at a table or counter, or 2) on a patio closed on all sides with entrance to the patio normally available only from the BUILDING, or 3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or 4) any combination of the above. In the OP-2 and the TD District, the minimum square footage for an individual restaurant shall be 5,000 square feet measured in NET FLOOR AREA. In the EAV District, service through walk-up windows may be allowed, and patios may be open and accessible from the outside.]

, or take any other action relative thereto.

SUMMARY

This article changes the definition of a restaurant to allow more flexibility in outdoor seating throughout the town with the provision that such arrangements not obstruct public ways, sidewalks, parking lots, and similar facilities. This makes the zoning provisions for outdoor seating uniform town-wide where previously such flexible outdoor seating was only allowed in the East Acton Village District, and otherwise only in an enclosed patio that can be accessed only from the inside of the restaurant.

Direct inquiries to: Roland Bartl, AICP, Town Planner – planning@acton-ma.gov/(978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

Roland Bartl

From: Ann Sussman
Sent: Thursday, November 08, 2007 6:19 PM
To: Roland Bartl
Cc: Design Review Board; Kim DelNigro; Planning Board
Subject: re: PB Agenda Item - Draft of Proposed Zoning Change - Restaurant Definition

Hi Roland et al,

Per our earlier meeting, please find *draft* of proposed revision of 3.5.5, Restaurant definition, below. Please let us know when this item could be placed on your agenda; one or two members of the Design Review Board will plan to attend in addition to Ed and Ruth.

Thanks very much.

Best,
Ann

From: Lauren Rosenzweig [mailto:lsr57@comcast.net]
Sent: Thursday, November 08, 2007 5:42 PM
To: annsmail@pipeline.com
Subject: RE: Draft of Proposed Zoning Change - Restaurant Definition

Hi Ann,

It sounds good to me. Present it to the Planning Board for feedback.

Lauren

From: Ann Sussman [mailto:annsmail@pipeline.com]
Sent: Thursday, November 08, 2007 5:02 PM
To: 'Lauren Rosenzweig'
Cc: 'Design Review Board'
Subject: re: Draft of Proposed Zoning Change - Restaurant Definition

As you know, following our meeting with the Selectmen in September, the Design Review Board met with the Planning Board last month to propose changes to the Restaurant Definition, By-law 3.5.5, to permit and promote outdoor seating at eating establishments in Acton. The Planning Board, supporting this change, recommended we take a stab at writing it. We did, following Roland Bartl's wise counsel that our draft not be "overly prescriptive."

As you are aware, Acton's current by-law 3.5.5 reads:

Restaurant – Establishment where food and beverages are sold within a BUILDING to customers for consumption, 1) at a table or counter or, 2) on a patio closed on all sides with entrance to the patio normally available only from the BUILDING, or 3) off the premises, as carry-out orders,...

It concludes with:

In the EAV district, service through walk-up windows may be allowed, and patios may be open and accessible from the outside.

The DRB recommends Acton's revised Restaurant By-law **substitute** for item 2) on a patio closed on all

12/7/2007

sides with entrance to the patio normally available only from the BUILDING, the following: *"on an adjacent outdoor space that does not obstruct a public way or required parking."*

The DRB also recommends **deleting** the last sentence: *In the EAV district, service through walk-up windows may be allowed, and patios may be open and accessible from the outside.* This is because with the new item #2 in place, it will become unnecessary to draw a distinction between EAV and the rest of town.

Our plan is to have the Design Review Board's Planning Board members, Ruth and Ed, present this *draft* at their next Planning Board meeting. It is our understanding it will then be the Planning Board and Planner's responsibility to vet the language as appropriate, as well as schedule hearings so that this item makes the deadline for the Town Meeting Warrant publication. We would of course present the results of this next meeting with the Planning Board to the Board of Selectmen at their next available time slot.

We'd like to proceed before the holiday *crunch*.
Let us know what you think!

Best,

Ann
978 790 7776

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12/7/2007

DRAFT ARTICLE D
(Two-thirds vote)

AMEND ZONING BYLAW
LI-1 DISTRICT; INCREASE FLOOR AREA RATIO TO 0.20

To see if the Town will vote to amend the zoning bylaw, Section 5, Table of Standard Dimensional Regulations, by changing the entry in column "MAXIMUM FLOOR AREA RATIO" and line "LI-1" from 0.10 to 0.20.

, or take any other action relative thereto.

SUMMARY

This article doubles the maximum Floor Area Ratio (FAR) in the Light Industrial – 1 (LI-1) zoning district from 0.10 to 0.20. The LI-1 district is located on approximately 60 acres north and south of Main Street at Post Office Square and consists of nine properties of varying size.

The district is largely built out under the current 0.10 FAR limit allowing only about 43,000 additional square feet to the 281,000 square feet of total existing floor area in the district. The existing net floor area is spread amongst the nine properties. One is built out in excess of the existing and proposed FAR limit, another is very near the proposed limit, three are between the existing and proposed FAR limits, two are below the existing limit, and one property is still vacant. The proposed FAR increase would accommodate an additional 201,000 square feet above the existing floor area in the district, or 158,000 square feet more than under the current FAR limit. The proposed zoning change results from work of the Town's Economic Development Committee. The committee reviewed the LI-1 zoning district and its current zoning limitations after a meeting that some property owners in the district had requested.

The proposed change brings most of the district properties into zoning conformance, and allows for additional growth on key parcels where additional building floor area, if permitted, would help retain longstanding Acton companies. The LI-1 district is currently the most restricted industrial zoning district. No other district has a FAR limit below 0.20. This change would bring the district up to par with most other industrial and commercial district, and provide growth opportunity for Acton's commercial/industrial tax base. The 50% open space requirement in the district would remain intact, which is the most stringent in all industrial districts – usually 35%. Except for two residential areas, which have adequate buffers to the district, the land surrounding the district is vacant.

Direct inquiries to: Roland Bartl, AICP, Town Planner – planning@acton-ma.gov/(978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:



**Economic Development
Committee**

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MEMORANDUM

To: Board of Selectmen
Planning Board

Date: November 14, 2007

From: Economic Development Committee

Subject: *Proposed Amendment to LI-1 Zoning District*

Introduction

At its November 1, 2007 meeting, the Town of Acton Economic Development Committee ("EDC") voted unanimously in support of recommending that the Board of Selectmen and the Planning Board give favorable consideration to a proposed amendment to the Light Industrial 1 ("LI-1") zoning district. This memorandum provides additional background on the district, the proposed amendment, and the rationale behind the EDC's recommendations.

The LI-1 District

The Light Industrial 1 ("LI-1") district is approximately 60 acres in area, located north and south of Main Street at Post Office Square. The district is presently comprised of nine parcels of land ranging in area from 13.45 acres (531 Main Street) to 1.93 acres (525 Main Street).

The district is largely built out with assessor's records showing 280,631 square feet of existing net floor area within the district's boundaries. Three buildings including approximately 64,000 square feet of space are located north of Main Street and six buildings totaling approximately 216,000 square feet of space are located south of Main Street. The 3.59-acre parcel known as 6 Post Office Square (located across from the Post Office) remains undeveloped and is apparently for sale.

Abutting uses include a largely undeveloped parcel of residential land occupied by the Conant family homestead to the north and northeast; the Town's Conant II wellfield to the east; a number of single-family homes along Old Village Road, Cricket Way, and Grasshopper Lane to the south; and undeveloped residential land and the Franklin Place 40B development to the west. It should be noted that the Isaac Davis Trail runs through the district along Main Street and then onto Conant land.

All vehicular access to the LI-1 district is via Main Street. Most parcels are accessed via the signalized intersection of Main Street and Post Office Square. Certain parcels north of Main Street are accessed via Acton Place.

Background

In February, 2007, Mr. Werner Gossels of Laine Realty Trust met with the EDC expressing interest in expanding his building at 531 Main Street (known as the Acton Tech Center). Mr. Gossels

explained that he would likely need to expand his building in order to retain a major tenant but could not do so as the property was already non-conforming in that its existing floor-area-ratio (FAR) of 0.14 already exceeded the permitted maximum FAR of 0.1 within the LI-1 district.

Subsequently, the EDC met with Level Design Group, representatives of the owner of 525 Main Street, the property just south of 531 Main Street. 525 Main Street houses a personal training business among other uses. The owners of 525 Main Street are eager to undertake a modest expansion of the building and have found that the property's existing FAR of 0.13 exceeds the allowed maximum.

While each property owner could potentially seek relief through a zoning variance process, it seems unlikely that a variance would be granted in either case. In response, the EDC volunteered to review the dimensional regulations for the LI-1 district and assess whether any modifications to the dimensional regulations would be appropriate and helpful. The Planning Department prepared a memorandum (attached) to help guide the EDC's decision-making process.

A brief review of the Table of Standard Dimensional Regulations (included in the attached memo) shows that the LI-1 district differs from the other industrial districts in Town in two primary ways: maximum FAR and minimum open space. At 0.1, maximum FAR in the LI-1 district is just half of what it is in the General Industrial (GI), Light Industrial (LI), Small Manufacturing (SM), and Technology (TD) districts. Similarly, within the LI-1 district, 50 percent of a site must remain open space compared to only 35 percent in the other industrial districts.

Proposed Amendment

The EDC recommends that additional density be allowed as-of-right within the LI-1 district by increasing the maximum FAR from 0.1 to 0.2, consistent with the other industrial districts within town. No other changes to the dimensional regulations are proposed.

Rationale

- Allowing for an incremental increase in floor-area-ratio will help ensure the ongoing economic viability of the Post Office Square district, preserving a piece of Acton's much needed commercial/industrial tax base and local jobs.
- While we are proposing to increase maximum FAR by 100 percent, we do not propose any modifications to other dimensional regulations governing minimum lot area, minimum frontage, minimum lot width, minimum front, side, and rear yard setbacks, minimum open space, or maximum height. These regulations, which are more stringent than in other industrial districts in Town, will ensure that any proposed expansions within the LI-1 district do not unduly encroach on or loom above neighboring properties.
- Additionally, expansion within the LI-1 district will be further limited by the requirement to maintain an adequate leach field for each property. These requirements are enforced by the Board of Health outside of the zoning enforcement process.
- Reportedly, the stringent dimensional regulations for the LI-1 district were crafted specifically to address concerns regarding Main Street traffic conditions by limiting the amount of development. Traffic conditions along the Main Street corridor have evolved since then and given the presence of the traffic signal at Post Office Square and Main Street, it does not appear that traffic to and from the businesses within the LI-1 district has a detrimental affect on traffic flow along Main Street.



TOWN OF ACTON

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Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Economic Development Committee **Date:** May 2, 2007
From: Kristin K. Alexander, AICP, Assistant Town Planner *KLA*
Subject: The Light Industrial 1 (LI-1) Zoning District & Gross Floor Area Definition
Acton Technology Center (Gossels property) – 531 Main Street

As you are aware, Mr. Werner Gossels of Laine Realty Trust has approached the Economic Development Committee (EDC) expressing interest in expanding his building (Acton Technology Center) at 531 Main Street. The property is located in the Light Industrial 1 (LI-1) zoning district. According to Mr. Gossels', two standards in the Acton Zoning Bylaw (Bylaw) threaten or limit his ability to expand: (1) the maximum floor area ratio (FAR) in the LI-1 zoning district of 0.10 (the lowest FAR limit of any non-residential zoning district in Town), and (2) the way gross floor area is defined as including all space with a floor to ceiling height of six feet (which is typically too low for a business to use as office/industrial space). Mr. Gossels' inquired whether the Bylaw could be amended to (1) increase the FAR in the LI-1 zoning district to at least 0.20, and (2) increase the ceiling height in the gross floor area definition to at least nine feet.

To assist with the EDC with this discussion, staff conducted some research on the two issues presented by Mr. Gossels.

LI-1 Zoning District

- Data were collected for all the properties located in the LI-1 zoning district (there are 10 properties in all; all located in the Post Office Square/Main Street area – see Attachment 1, which you also received at the last EDC meeting). This is the best information we can provide to the EDC on build-out potential.
- The LI-1 properties on the east side (Gossels side) of Main Street near Post Office Square have been designated as some type of Industrial zoning ever since the Acton Zoning Map was created in 1953. The LI-1 properties on the west side of Main Street have been designated as some type of Industrial zoning since at least 1968. FAR became a dimensional requirement in the Acton Zoning Bylaw in 1988. At that time, the maximum FAR allowed for those properties (which were zoned Light Industrial at the time) was 0.20. In 1990, the zoning of those properties was changed from Light Industrial to Light Industrial 1 (LI-1) and the maximum FAR for those properties was reduced to 0.10. The FAR was reduced primarily due to future traffic concerns on Main Street (see Attachments 2 and 3).
- Staff spoke briefly with Doug Halley, the Health Department Director, about septic systems in the LI-1 zoning district. Mr. Halley said that the soils tend to be poor on both sides of Main Street near Post Office Square, so most septic systems tend to be in the rear of the properties. The rear of the LI-1 properties on both sides of Main Street are located near the

the east side (Gossels side)

Town's Groundwater Protection District Zone 2 (GPDZ 2). Being so close to the GPDZ 2 "might" limit some of the businesses' ability to expand (because sewage treatment facilities might be needed, some types of businesses might be prohibited, etc.), but it is difficult to state without further investigation and without having a specific proposal in front of staff to review and comment on.

Gross Floor Area Definition

- The Gross Floor Area (GFA) definition in the Acton Zoning Bylaw always stated that every space in a building is to be counted toward floor area, regardless of floor-to-ceiling height, except stairways, elevator wells, restrooms and lounge areas, common hallways and building service areas. It wasn't until sometime between 1977 and 1984 when the Town voted to amend the definition to try and define the GFA a little better by adding the phrase "but not including...any space where the floor-to-ceiling height is less than six feet". Staff cannot recall or find in historical documents why "six feet" was chosen. FYI – the State building code requires that commercial spaces have a minimum ceiling height of seven feet six inches (7'6").

FYI - Town Meeting

- At the last EDC meeting, the question arose as to whether a quorum is needed for Town Meeting. The Town Clerk stated that Acton does not require a quorum for Town Meeting.

NOTES for TABLE OF STANDARD DIMENSIONAL REGULATIONS

- (1) Where a nonresidential USE abuts a residential district the yard or yards abutting the residential district shall be 20 feet in WAV, 30 feet in NAV and 30 feet in EAV and EAV-2.
- (2) If the LOT abuts a Residential District, whether directly or separated by a public or railroad right of way, the side and rear yards abutting the Residential District shall be increased as follows:

Industrial District	Minimum Side or Rear Yard
TD	200 feet
GI	100 feet
LI or LI-1	60 feet
SM	50 feet

- (3) Where a Multifamily Dwelling USE abuts a residential zoning district other than R-A the minimum side and rear yard shall be increased to 30 feet.
- (4) In the EAV District, subject to the provisions in Sections 5.4 and 5.5B. In the EAV-2 District, subject to the provisions in Section 5.5B.2 In the NAV District, subject to the provision in Section 5.4 and 5.5C. In the LB District, subject to the provisions in Section 5.4.
- (5) The minimum front yard to the sideline of STREETS other than Great Road shall be 30 feet. On LOTS with FRONTAGE on Great Road and in existence on or before February 15, 1990, where the 75-foot minimum front yard to the sideline of Great Road would exceed 30% of the LOT depth, the front yard may be reduced to 30% of that LOT depth, but not to less than 30 feet. Lot depth shall be measured in a line that is perpendicular to the Great Road sideline.
- (6) If the LOT abuts a residential zoning district the minimum side and rear yard shall be 50 feet. On LOTS in existence on or before February 15, 1990 where the minimum side or rear yard exceeds 20% of the LOT depth, the side or rear yard may be reduced to 20% of that LOT depth, but not to less than 30 feet. Lot depth shall be measured in a line that is perpendicular to the applicable side or rear LOT line.
- (7) If the LOT abuts a Residential District the minimum side and rear yard shall be 60 feet.
- (8) Minimum LOT FRONTAGE on Rt. 27 (Main Street) shall be 200 feet.
- (9) Where a LOT is facing Great Road or Main Street the minimum front yard shall be 30 feet.
- (10) The maximum front yard shall be ten (10) feet in the WAV District and twenty feet (20') in the SAV and EAV Districts, or the lesser of the front yards of the two BUILDINGS or STRUCTURES on either side, whichever is the least. Exceptions: a) The maximum front yard requirement shall not apply to a BUILDING or STRUCTURE in the rear of an existing BUILDING or to an addition to the rear of an existing BUILDING or STRUCTURE, if all are located on one LOT with FRONTAGE on only one STREET. b) The maximum front yard requirement shall not apply to a BUILDING or STRUCTURE on a LOT without FRONTAGE and located entirely in the rear of existing BUILDINGS or STRUCTURES so that it does not face a STREET.
- (11) The FLOOR AREA RATIO may be increased to .70 provided that for every 1000 square feet of non-residential NET FLOOR AREA built above a FLOOR AREA RATIO of .40 an at-least-equal amount of residential NET FLOOR AREA is provided simultaneously.
- (12) The minimum height of a BUILDING shall be twenty (20) feet. Accessory BUILDINGS, such as garages or sheds, may be less than 20 feet in height.
- (13) The maximum Floor Area Ratio (FAR) may be increased to .40, provided that for every square foot of non-residential NET FLOOR AREA built above FAR of .20 an equal amount or more of habitable residential NET FLOOR AREA is provided simultaneously, and set aside for exclusive residential USE.
- (14) On LOTS within the QP-1 District, which on April 3, 1995 were held in common ownership the FLOOR AREA RATIO may be calculated by dividing the sum of the NET FLOOR AREA of all BUILDINGS on such LOTS by the DEVELOPABLE SITE AREA of such LOTS, whether or not such LOTS are contiguous or divided by a STREET.
- (15) Subject to certain provisions in Section 5.6, Special Provisions for the Kelley's Corner District.
- (16) Subject to certain provisions in Section 5.7, Special Provisions for the Office Park 2 District.
- (17) Landscaped screening shall be required to separate a nonresidential USE from a Residential District. The screen shall be 100 feet in width and shall be nontransparent in all seasons of the year from the ground to a height of at least six (6) feet, with intermittent visual obstruction to a height of at least 20 feet. The screen is intended to exclude visual contact between uses and to create a strong impression of spatial separation. It may be composed of a wall, fence, landscaped earth berm, or densely planted vegetation or a combination of these items.
- (18) The maximum FLOOR AREA RATIO and height may be increased further subject to procedures and conditions set forth in Section 10.4.3.12.

LI-1 District Map and Data (highlighted is Laine RT property)



Light Industrial - 1
Zoning
District

Parcel ID	St#	Street	Zone 1	MaxFAR	Acres	DSA	NR FA	FAR	NRBO MP	NR+MP	BO FAR
E4 024000	524	Main St	LI-1	0.10	7.51	278065	8994	0.03	27807	18813	0.10
E4 025000	530	Main St	LI-1	0.10	7.78	288062	20390	0.07	28808	8416	0.10
E4 046000	528	Main St	LI-1	0.10	4.63	121010	34808	0.29	34808	0	0.29
E4 059000	553	Main St	LI-1	0.10	5.31	231304	28797	0.12	28797	0	0.12
E4 059001	6	Post Office Sq	LI-1	0.10	3.59	156380	0	0.00	15638	15638	0.10
E4 059002	8	Post Office Sq	LI-1	0.10	10.66	371933	70808	0.19	70808	0	0.19
E4 067000	531	Main St	LI-1	0.10	13.45	525502	79989	0.14	79989	0	0.14
E4 067002	7	Post Office Sq	LI-1	0.10	5.48	238709	26120	0.11	26120	0	0.11
E4 078000	525	Main St	LI-1	0.10	1.93	84071	10725	0.13	10725	0	0.13
LI-1 District			LI-1	0.10	60.34	2355416	280631	0.12	323498	42867	0.14

DSA = Developable Site Area (acres minus wetlands and floodplains)

NR FA = existing Net Floor Area

FAR = existing Floor Area Ratio

NRBO MP = maximum build-out potential

NR+MP = additional potential floor area

BO FAR = potential Floor Area Ratio at build-out

E4 059002 includes atlas parcel F4 002000

F4 002000	10	Post Office Sq	LI-1	0.10	6.24	179398	0	0.00	0	0	0.00
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TABLE OF STANDARD DIMENSIONAL REGULATIONS

See also Special Provisions and Exceptions to Dimensional Regulations (Section 5.3), Transfer of Development Rights for special dimensional regulations affecting the LB, NAV and EAV Districts and certain land in the R-2, R-8 and R-10/8 Districts along and near Great Road (Section 5.4), Special Provisions for Village Districts (Section 5.5), Special Dimensional Requirements in the Groundwater Protection District (Section 4.3), Special Dimensional Regulations for Open Space Developments (OSD - Section 4.2), Planned Conservation Residential Communities (PCRC - Section 9), and Senior Residences (Section 9B).

The symbol "NR" on this Table indicates no specific minimum or maximum regulation.

DISTRICT	ZONING DISTRICTS	MINIMUM LOT AREA in sq. ft.	MINIMUM LOT FRONTAGE in feet	MINIMUM LOT WIDTH in feet	MINIMUM FRONT YARD in feet	MINIMUM SIDE & REAR YARD in feet	MINIMUM OPEN SPACE in percent	MAXIMUM FLOOR AREA RATIO	MAXIMUM HEIGHT in feet
RESIDENTIAL DISTRICTS	R-2	20,000	150	50	30	10	NR	NR	36
	R-4	40,000	175	50	45	20	NR	NR	36
	R-8	80,000	200	50	45	20	NR	NR	36
	R-8/4	80,000	200	50	45	20	NR	NR	36
	R-10	100,000	250	50	45	20	NR	NR	36
	R-10/8	100,000	250	50	45	20	NR	NR	36
	R-A	100,000	200	50	30	10 (3)	35%	NR	36
	R-AA	10,000	100	50	30	10	35%	NR	36
VILLAGE DISTRICTS	VR	15,000	50	NR	10	10	20%	NR	36
	EAV	NR	NR	NR	10 (10)	NR (1)	25%	0.20 (4)	36
	EAV-2	15,000	50	NR	10	10 (1)	35%	0.20 (4)	36
	NAV	10,000	100	50	10 (9)	10 (1)	35%	0.20 (4)	36
	SAV	NR	NR	NR	10 (10)	10	NR	0.20 (13)	36 (12)
	WAV	NR	NR	NR	5 (10)	NR (1)	NR	0.40 (11)	36 (12)
	OP-1	80,000	200	50	50	30 (7)	50%	0.20 (14)	36
	OP-2	80,000	200	50	50	30 (7)	50%	0.20 (16)	40
BUSINESS DISTRICTS	KC	10,000	100	50	30	NR (6)	NR	0.40 (15)	36
	LB	20,000	200	50	75 (5)	30 (6)	50%	0.20 (4)	36
	PM	10,000	100	50	30	20	35%	0.20	40
	GI	40,000	100	50	45	20 (2)	35%	0.20	40
	LI	80,000	200	50	50	30 (2)	35%	0.20	40
	LI-1	80,000	200	50	50	30 (2)	50%	0.10	40
	SM	40,000	100 (8)	50	50	30 (2)	35%	0.20 (18)	36 (18)
	TD	40,000	100	50	45	50 (2,17)	35%	0.20	40
IF. DISTRICT	ARC	NR	20	50	20	10	NR	NR	36

- 1.3.6 FAMILY:** A person or number of persons occupying a DWELLING UNIT and living as a single housekeeping unit, provided that a group of six or more persons shall not be deemed a FAMILY unless at least half of them are related by blood, marriage or adoption, including wards of the state.
- 1.3.7 FLOOR AREA, GROSS:** The sum of the gross horizontal areas of the several floors of a BUILDING measured from the exterior face of exterior walls, or from the centerline of a wall separating two BUILDINGS, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.
- 1.3.8 FLOOR AREA, NET:** The total of all floor areas of a BUILDING including basement and other storage areas, but not including stairways, elevator wells, rest rooms, common hallways and BUILDING service areas, and not including areas used for a Child Care Facility as defined in Section 3.4.6 of this Bylaw provided that such Child Care Facility is accessory to a PRINCIPAL USE located in the same BUILDING or on the same LOT.
- 1.3.9 FLOOR AREA RATIO:** The ratio of the sum of the NET FLOOR AREA of all BUILDINGS on a LOT to the DEVELOPABLE SITE AREA of the LOT.
- 1.3.10 FRONTAGE:** A continuous LOT line along the sideline of a STREET.
- 1.3.11 OPEN SPACE:** Those areas of a LOT on which no BUILDING or STRUCTURE is permitted, except as otherwise provided by this Bylaw, and which is not to be used or devoted to STREETS, driveways, sidewalks, off-STREET parking, storage or display.
- 1.3.12 LOT:** An area of land, undivided by any STREET, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is 1) a deed recorded in Middlesex County South District Registry of Deeds, or 2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry, or 3) title of record disclosed by any and all pertinent public documents.
- 1.3.13 LOW-INCOME:** The term LOW-INCOME shall refer to households having a total household or FAMILY income less than or equal to eighty (80) percent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.
- 1.3.14 MODERATE-INCOME:** The term MODERATE-INCOME shall refer to households having a total household or FAMILY income less than or equal to one hundred twenty (120) per cent, but more than eighty (80) per cent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.
- 1.3.15 SENIOR:** An individual who is 55 years of age or older.
- 1.3.16 STREET:** A STREET shall be 1) an improved public way laid out by the Town of

TOWN OF ACTON

INTER-DEPARTMENTAL COMMUNICATION

DATE : December 22, 1989

TO : Board of Selectmen
Don P. Johnson, Town Manager

FROM : Roland Bartl, Town Planner

R.B.

RE : MASTER PLAN HOLDING ARTICLES FOR
SPRING TOWN MEETING 1990

The following is the list of holding articles as currently anticipated by the Planning Council, IEP and Planning Staff to be presented for consideration at the 1990 Regular Town Meeting. This is a preliminary list. The actual number of articles may be slightly higher or lower, depending on (1) final consultant recommendations, (2) on public response at the Master Plan meeting on January 31st, 1990, (3) on public input at the Planning Board public hearing on the proposed zoning articles, and (4) on response and input received at meetings to be held with various civic organizations and individuals.

Except for the Master Plan Goals and Objective Statement and the Action Plan, all articles for 1990 will probably be zoning articles. The Zoning Act provides that initiation of zoning changes at a regular town meeting may come from the Planning Board, the Board of Appeals, the Board of Selectmen, from the MAPC, from 10 registered voters, or from an individual land owner with respect to a zoning change concerning his/her land. The Board of Selectmen have appointed the Planning Council and given it the task to develop a master plan for Acton. I would therefore recommend that all master plan articles be formally inserted into the warrant by the Board of Selectmen, using the Planning Council and all others working on the master plan as advisors regarding the final shape and number of the articles.

December 22, 1989

Master Plan Holding Articles

I) **New Zoning Districts for Remaining Industrial Lands. (6)**

We would propose to take the following actions with respect to many of the remaining industrial lands in Acton.

First, the designation of the land owned by Grace and Airco to an Industrial Park Zone, with a maximum Floor Area Ratio of 0.05 or less. This density would still allow for some expansion, but such expansion would be limited to a scale that could be more easily accommodated within the existing road-system in the area, and that would limit the extent of serious disturbances in an environmentally unstable location. These environmental concerns also eliminated the possibility of rezoning the land to residential use.

Second, the creation of an Office Park Districts 2 with a maximum FAR of 0.2 along Rt.2 between Hosmer Street and Piper Road. This land is currently zoned light industrial, and about half built with office buildings while the other half is occupied by the Concord Auto Auction. This area has quite a bit of growth potential left. The zoning proposal seems appropriate because this area is the last remaining area in Acton which, due to its location along Rt.2, logically lends itself to development with high traffic generators.

Third, the creation of Office Park 1 with a maximum FAR of 0.1 for Nagog Park, which is pretty much built out at or above FAR 0.2 with primarily office buildings and some light manufacturing uses. Limiting the FAR to 0.1 would pretty much lock in this office development area at current build-out levels.

Both Office Park districts would permit a wide range of light manufacturing.

Fourth, Post Office Square (also Technology Way) and the area on Main Street across from Post Office Square is considered for a separate Light Industrial Park designation at FAR 0.1. This industrial zone is the primary traffic generator along Main Street, and restrictive zoning here would reduce the potential traffic problems on Main Street under build-out. While the Post Office Square Subdivision still enjoys zoning protection for a couple more years, this measure could provide substantial relief, especially since the area across from Post Office Square has no zoning protection and is built at levels far below the current permitted maximum.

Fifth, Acorn Park is protected under 1987 zoning for up to eight years. This means that this subdivision is protected for development without any FAR restrictions whatsoever. Acorn Park presents a major portion of future projected growth and at the same time it presents the "big unknown" since we don't know to which degree it will be built out when its zoning

Industrial Growth Management

Recommendation 13: Industrial Districts

It is recommended that the following three new industrial districts be established:

• Light Industrial (LI-1) District

This zoning district would include the land surrounding Post Office Square (formerly Technology Drive) just north of Acton Center. The maximum Floor Area Ratio (FAR) will be reduced by half to assist in the effort to control traffic congestion on Main Street. There are 11 parcels to be included in the LI-1 District totalling approximately 60 acres.

• Industrial Park (IP) District

Land in South Acton encompassing the Grace and Airco industrial properties is proposed to be re-zoned to the IP District. The maximum FAR permitted in the IP District would be .04, down from .20 currently permitted on the land under General Industrial District standards. This reduction in permitted floor area will still permit reasonable expansion of existing uses, but will ensure that no drastic increase in development occurs. The roadway infrastructure in this area cannot support any drastic increases in industrial traffic and much of this area is affected by serious ground water contamination problems. The total land area proposed for the IP District is approximately 180 acres.

• Small Manufacturing (SM) District

The SM District would include land in two parts of Acton – the first to be located on land in East Acton, and the second to be located along Main Street in North Acton. Both areas are currently zoned General or Light Industrial and feature primarily industrial uses. The SM District is designed to preserve the type of small manufacturing uses in the area and ensure stronger site design controls. The total land area to be rezoned into the SM District is approximately 140 acres.

Adoption of this recommendation would increase the total number of industrial zoning districts to five. The greater number of industrial districts would permit greater flexibility in the Zoning Bylaw, responding to the varied circumstances encountered in the different districts, such as environmental concerns, roadway infrastructure limitation, proximity to residential neighborhoods, and existing uses.

Adoption of this recommendation will assist in the implementation of the following Master Plan goals and objectives:

- Maintain the diversity of commercial enterprise in Acton.
- Permit only commercial and industrial uses which do not have the potential to significantly degrade Acton's environmental and natural resources.
- Limit future commercial and industrial development.
- Limit the amount and intensity of new growth as one measure to control traffic.

Note: This recommendation was adopted at Acton's April 1990 Town Meeting. See Appendix III for warrant article text (Article 4 of April 1990 Town Meeting).

TOWN MEETING: April 7, 1988

- Article 1 Amend Section 3.4 - Governmental, Institutional and Public Service Uses**
 - Article 2 Amend Section 6.1.3 - Interior Driveway**
 - Article 5 Amend Section 10.4.3 - Site Design Standards for Site Plan Special Permits**
 - Article 6 Amend Section 3.5.2 - Table of Principal Uses**
 - Article 7 South Acton Village**
 - Article 8 Amend Section 10.4.4.1 - Decrease Number of Required Parking Spaces**
-

Article 1: Section 3.4

To see if the Town will vote to insert a new section 3.4.6, DAYCARE and to amend the Table of Principal Uses to reflect these changes of the Acton Zoning By-law, Town of Acton, Massachusetts as follows:

- a) Insert a new section 3.4.6 - Daycare under GOVERNMENTAL, INSTITUTIONAL, and PUBLIC SERVICES USES, to read as follows:

3.4.6 Daycare - Private or nonprofit group daycare center, nursery school, kindergarten, after school center, or similar facility operated for children younger than 15 years of age and for special need children younger than 17 years of age and serving more than six (6) children.

- b) Amend the Table of Principal Uses by inserting a new Section 3.4.6 - Daycare which reads as follows:

Daycare:

R-2	R-4	R-8	SAV	WAV	GB
Y*	Y*	Y*	Y	Y	Y

LI	GI	ARC	PCRC	SPSP
Y**	Y**	N	Y*	R

*Only a public or nonprofit accessory use to an educational or religious use.

**Only as an accessory use to a permitted use.

- c) Insert a new Section 6.3.3 - Schedule of parking USES - k) Daycare - One space for each five (5) children of rated capacity of the daycare facility plus one space for each staff position.

or take any other action relative thereto.

MOTION: MRS. HARTING-BARRAT moves that the Town amend the Acton Zoning By-Law as set forth in this Article, except that in paragraph b), the phrase after the single asterick shall read as follows: "Only as a public or nonprofit accessory use to an education or religious use."

MOTION CARRIES - TOTAL VOTE - 80 YES - 60 NO - 20

THIS ARTICLE REQUIRES A 2/3 VOTE.

Article 2: Section 6.1.3

To see if the Town of Acton will vote to amend the Acton Zoning By-law, Section 6.1.3. Interior Driveway as follows:

Section 6.1.3. Interior Driveway - delete in its entirety and replace with:

6.1.3 Interior Driveway - a travel lane located within the LOT which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the access driveway.

or take any other action relative thereto.

MOTION: Mr. Dennis moves that the Town amend Section 6.1.3 of the Acton Zoning By-law as set forth in this Article.

MOTION CARRIES UNANIMOUSLY.

Article 5: Section 10.4.3

To see if the Town will vote to amend Section 10.4.3, Site Design Standards for Site Plan Special Permits, of the Acton Zoning By-law to insert two new sections, 10.4.3.5 DEVELOPABLE SITE AREA, and 10.4.3.6. MAXIMUM NET FLOOR AREA and to amend the Table of Standard Dimensional Regulations to reflect these changes, and to amend Section 1.3 DEFINITIONS to insert definitions for DEVELOPABLE SITE AREA; FLOOR AREA, NET: FLOOR AREA RATIO; and to renumber the section accordingly.

a) 10.4.3.5 DEVELOPABLE SITE AREA:

The DEVELOPABLE SITE AREA:

The DEVELOPABLE SITE AREA shall be calculated by subtracting from the LOT area all land which is located in:

- 1) a wetland, which shall mean a "freshwater wetland" as defined in Chapter 131, Section 40, M.G.L.
- 2) a Flood Plain District as defined in Section 4.1 of the Town of Acton Zoning By-law.
- 3) another zoning district in which the Principal use of the LOT is not also permitted, subject to the provisions of Section 2.3.4.
- b) 10.4.3.6 MAXIMUM NET FLOOR AREA - The maximum NET FLOOR AREA on a LOT shall not exceed the product of the DEVELOPABLE SITE AREA and the maximum FLOOR AREA RATIO set forth in the Table of Standard Dimensional Regulations. To simplify the determination of NET FLOOR AREA, 80 percent of the GROSS FLOOR AREA may be used.
- c) Replace in the Table of Standard Dimensional Regulations the column entitled MAXIMUM BUILDING COVERAGE IN PERCENT with a column entitled MAXIMUM FLOOR AREA RATIO. The new column shall read as follows:

R-2	NR
R-4	NR
R-8	NR
SAV	.20
WAV	.20
GB	.20
LI	.20
GI	.20
ARC	NK

- d) Include in Section 1.3, DEFINITIONS of the Zoning By-law the following definitions:

1.3.3 DEVELOPABLE SITE AREA:

That part of the LOT which remains after subtracting land that is not available and suitable for the

construction of a structure or other man-made improvements, in accordance with 10.4.3.5. **FLOOR AREA, NET:**

The total of all floor areas of BUILDING including basement and other storage areas, but not including stairways, elevator wells, restrooms, common hallways, areas used for the provision of daycare as defined by Section 3.4.6 of the Acton Zoning By-law, and BUILDING service area.

1.3.8 FLOOR AREA RATIO:

The ratio of the sum of the NET FLOOR AREA of all BUILDINGS on a lot to the DEVELOPABLE SITE AREA of the LOT.

...and the existing Section 1.3.3 DWELLING UNIT, will be numbered as Section 1.3.4 Section 1.3.3 FAMILY, and Section 1.3.5 FLOOR AREA, GROSS shall be renumbered as 1.3.9, and so on throughout Section 1.3 until the final Section 1.3.12. USE, PRINCIPAL has been renumbered as Section 1.3.15.

- e) Section 6.1.5 NET FLOOR AREA - delete in its entirety and replace with: 6.1.5 NET FLOOR AREA as defined in Section 1.3.7 FLOOR AREA, NET of the Acton Zoning By-law,

or take any other action relative thereto.

This article shall not affect the following development projects in process:

- Projects for which a Site Plan Special Permit has been granted before April 7, 1988.
- Projects for which an application for a Site Plan Special Permit has been filed on or before January 8, 1988.
- Projects for which plans have been presented to the Town of Acton for preliminary technical site plan review on or before January 8, 1988.

MOTION: MR. WEEKS moves that the Town amend the Acton Zoning By-law as set forth in this article.

MOTION: MR. KADISON moves to amend the motion to add a new section as follows:

Section 10.4.3.7 CERTAIN PROJECTS EXEMPTED - Section 10.4.3.5, section 10.4.3.6 and the Maximum Floor Area Ratio Column in the Table of Standard Dimensional Regulations shall not apply to development projects for which:

- a) A Site Plan Special Permit has been granted on or before April 7, 1988; or
- b) An application for a Site Plan Special Permit has been filed on or before April 7, 1988; or
- c) Plans have been presented to the Town of Acton for pre-application and preliminary technical site plan review on or before April 7, 1988.

MOTION AS AMENDED CARRIES.

TOTAL VOTE - 146

YES-119

NO-27

DRAFT ARTICLE E

(Two-thirds vote)

AMEND ZONING BYLAW**SENIOR RESIDENCES – AFFORDABLE HOUSING ALTERNATIVES**

To see if the Town will vote to amend the zoning bylaw by inserting a new subsection 9B.12.9 under section 9B – Senior Residence as follows:

3B.12.9 Affordable Housing Alternatives - The Planning Board in its special permit may authorize or require the substitution of required AFFORDABLE SENIOR RESIDENCES with:

3B.12.9.1 Off-site AFFORDABLE DWELLING UNITS, which shall be in suitable condition for family or individual persons' housing as the Planning Board may determine, and eligible for inclusion in Acton's subsidize housing inventory under M.G.L. Chapter 40B.

3B.12.9.2 Monetary contributions for affordable housing programs made to the Acton Community Housing Program Fund in an amount sufficient for the Town or its designee to create off-site affordable family or individual persons' housing, as the Planning Board may determine, and eligible for inclusion in Acton's subsidize housing inventory under M.G.L. Chapter 40B.

, or take any other action relative thereto.

SUMMARY

The Acton zoning bylaw includes a section that regulates the construction of senior residence developments. One provision requires the inclusion of affordable dwelling units for seniors. Another provides for increases in density of a project in exchange for additional affordable units for seniors. There is a very limited number of potentially qualifying seniors to purchase such affordable units while keeping the units eligible for inclusion in Acton's subsidized housing inventory under M.G.L. Chapter 40B. In addition, the State's regulations for inclusion of units in the 40B subsidized housing inventory have grown increasingly hostile to senior housing. This article, if adopted, will authorize the Planning Board, when granting a special permit for Senior Residence housing, to arrange for the substitute provision of off-site affordable dwelling units that are not restricted to seniors, or for a monetary contribution to the Acton Community Housing Fund.

Direct inquiries to: Roland Bartl, AICP, Town Planner – planning@acton-ma.gov/(978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

DRAFT ARTICLE F
(Two-thirds vote)

AMEND ZONING BYLAW
WIRELESS SERVICE FACILITIES

To see if the Town will vote to amend the zoning bylaw by deleting sections 3.10 (Special Requirements for Wireless Communication Facilities), and 3.11 (Temporary Moratorium on Wireless Communication Facilities ...), and replacing them with a new section 3.10 as follows:

3.10 Special Requirements for Personal Wireless Facilities

3.10.1 Purposes

- 3.10.1.1 To allow Personal Wireless Facilities in accordance with and as required by the Federal Telecommunications Act of 1996 and in acknowledgment of M.G.L. Chapter 40A, Section 3.
- 3.10.1.2 To minimize their adverse impacts on adjacent properties, local historic districts, residential neighborhoods, and scenic vistas.
- 3.10.1.3 To establish requirements for their approval, and standards for their design, placement, safety, monitoring, modification, and removal.
- 3.10.1.4 To limit the overall number and height of Personal Wireless Towers to what is essential to serve the public convenience and necessity.
- 3.10.1.5 To promote shared USE of Facilities to reduce the need for new Facilities.

3.10.2 Applicability

- 3.10.2.1 This Section 3.10 shall apply to all reception and transmission Facilities that aid, facilitate, and assist with the provision of Personal Wireless Services.
- 3.10.2.2 No such Facility shall be erected or installed except in compliance with the provisions of this Section 3.10.
- 3.10.2.3 Nothing in this Bylaw shall be construed to regulate or prohibit customary installations for the reception of wireless communication signals at home or business locations.
- 3.10.2.4 Nothing in this Bylaw shall be construed to regulate or prohibit a tower or antenna installed solely for use by a federally licensed amateur radio operator. For regulations on amateur radio towers see Section 3.8.3.6 of this Bylaw.

3.10.3 Definitions

- 3.10.3.1 Adequate Capacity – *(discussed pros and cons of fixed number standards (such as in Concord) v. more general standards and benchmark, if there are any. General standards standard could talk, say, about adequate capacity within coverage area of Personal Wireless Facility as defined by widely accepted and published industry standards, FCC guidelines, or established case law set from time to time. The Board could then state policy in the special permit rules or on a case by case basis on how it views the matter, based on newest standards developed by others. Relate question: How do newer communication types play into what adequate capacity really is - text messages, e-mail, audio, video, games, etc? Do towns need to allow capacity to be built for all of these?).*
- 3.10.3.2 Adequate Coverage – *(discussed pros and cons as in 3.10.3.1 above).*

- 3.10.3.3 Antenna – Reception and transmission device with the purpose and function to aid, facilitate, and assist with the provision of Personal Wireless Services as identified and defined in the Federal Telecommunications Act of 1996.
- 3.10.3.4 Co-locator – One of two or more Carriers who occupy space on a Tower or Site to locate Antennae and other equipment for the provision of Personal Wireless Services.
- 3.10.3.5 Equipment Compound – A BUILDING or fenced compound at the base of a Tower that encloses necessary equipment and installations to support Personal Wireless Services.
- 3.10.3.6 FCC – The Federal Communications Commission.
- 3.10.3.7 Flush Mounted Antennae – Antennae that are mounted directly on the outside surface of a monopole without braces or mounting brackets that extend horizontally from the monopole.
- 3.10.3.8 Monopole – A single self-supporting tower or pole, with below grade foundation, designed so it does not require braces or guy wires for support and stability.
- 3.10.3.9 Personal Wireless Services – Commercial mobile communication services and common carrier wireless exchange access services as defined in the Federal Telecommunications Act of 1996 and pertinent FCC regulations, and which require an FCC license to operate.
- 3.10.3.10 Personal Wireless Service Provider or Personal Wireless Service Carrier (Provider or Carrier) – An entity, licensed by the FCC to provide Personal Wireless Services.
- 3.10.3.11 Personal Wireless Facility (Facility) – A facility, installation, appurtenance, and equipment, including a Tower, having the purpose and function to aid, facilitate, and assist with the provision of Personal Wireless Services.
- 3.10.3.12 Personal Wireless Facility Site (Site) – A LOT as defined in this Bylaw; or one or more contiguous LOTS in single ownership; or one or more contiguous LOTS whose individual owners have entered into a partnership, corporation, trust, or other legal entity with the purpose of jointly hosting a Facility.
- 3.10.3.13 Personal Wireless Tower (Tower) – A tower or pole erected with the purpose of providing Personal Wireless Services and bearing one or more antennae.
- 3.10.3.14 Significant Gap - *(discussed pros and cons as in 3.10.3.1 above)*.
- 3.10.3.15 Stealth Tower – A Monopole with internally mounted antennae that are not visible from the outside of the monopole.

3.10.4 General Prohibitions and Requirements

- 3.10.4.1 Lattice style towers and similar facilities requiring more than one leg or guy wires for support are prohibited. However, additional equipment may be mounted on an existing lattice tower.
- 3.10.4.2 No Personal Wireless Tower shall be erected in a Local Historic District or within 500 feet of the boundary of a Local Historic District measured from the center point of a Tower at its base.
- 3.10.4.3 All STRUCTURES, equipment, utilities and other improvements associated with Personal Wireless Facilities shall be removed within one year after cessation of USE.
- 3.10.4.4 Night lighting of Personal Wireless Facilities is prohibited except for low intensity lights installed at or near ground level in or on the Equipment Compound and in compliance with the Outdoor Lighting Regulations of this Bylaw, section 10.6.

- 3.10.4.5 At least one sign shall be installed in a visible location at the Equipment Compound that provides the telephone number where the operator in charge can be reached at all times.
- 3.10.4.6 Section 6 of the Acton Zoning Bylaw shall not apply to Wireless Communication Facilities.
- 3.10.4.7 Nothing in this Bylaw shall be construed to regulate or prohibit a Personal Wireless Facility on the basis of the environmental effects of radio frequency radiation (RFR) emissions, provided the Facility complies with regulations of the Federal Communications Commission concerning such emissions.

3.10.5 Personal Wireless Facilities Allowed by Right

- 3.10.5.1 In all zoning districts, a Personal Wireless Facility shall be allowed and no special permit shall be required,
 - a) if the Facility does not exceed 3 feet in diameter and 12 feet in height and is otherwise in compliance with applicable dimensional requirements of this Bylaw as they relate to the Personal Wireless Facility Site, or
 - b) if the Facility is located entirely within, or mounted on, a BUILDING or STRUCTURE that is occupied or used primarily for other purposes, provided that the BUILDING or STRUCTURE, including the Facility, meets all dimensional requirements of this Bylaw for the zoning district in which the Site is located.
- 3.10.5.2 In the Office Districts (OP-1, OP-2), the Industrial Districts (LI, GI, LI-1, IP, SM), the Powder Mill District (PM), and the Limited Business District (LB), a Monopole Tower shall be allowed and no special permit shall be required, if its height does not exceed applicable height limitations for STRUCTURES and BUILDINGS in the zoning district in which it is located, and if its set back, measured from its center point at its base to all Site boundary lines, is at least the distance equal to its height, but not less than the otherwise applicable minimum yard requirement for BUILDINGS and STRUCTURES in the zoning district.
- 3.10.5.3 Any new equipment owned by a Personal Wireless Service Provider may be mounted on a previously approved Tower without a special permit, if there is no increase in height above the maximum height specified in the special permit for the Tower.

3.10.6 Special Permit for Facilities

- 3.10.6.1 Any Personal Wireless Facility, and any increase in height or size, or reconstruction or replacement of an existing Facility that does not meet the criteria under section 3.10.5 above, may only be allowed by special permit from the Planning Board in accordance with M.G.L. Ch. 40A, s.9, subject to the following statements, regulations, conditions and limitations.
- 3.10.6.2 A Personal Wireless Tower shall not exceed a height of 175 feet from ground level, or a height that is allowed without illumination at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less. For purposes of determining the height of a Tower, the height shall be the higher of the two vertical distances measured as follows:
 - a) The elevation of the top of the pole structure above the mean ground elevation directly at the base of the pole; or

- b) The elevation of the top of the pole structure above the mean ground elevation within 500 feet of the base of the pole.
- 3.10.6.3 Personal Wireless Towers shall be Stealth Towers. On a case by case basis, generally when aesthetic considerations are less important, the Planning Board may allow Monopoles with external flush mounted Antennae, or external standard antennae that extend laterally from the Monopole.
- 3.10.6.4 Personal Wireless Towers shall be located, designed, and constructed as Monopoles that are, or that are engineered to be, structurally extendable to be the maximum height allowed under Section 3.10.6.2 above capable of accommodating the maximum number of technically feasible Co-locator Antennae in the portion of the Monopole above the tree line, as well as an Equipment Shelter or Compound physically able to, or capable of being enlarged to, fully accommodate the maximum number of Personal Wireless Service Carriers and other equipment necessary for the maximum number of technically feasible Co-locators at the Site.
- 3.10.6.5 In all Residential Districts, the setback of a Personal Wireless Tower, measured from the center point of the Tower at its base to the boundary lines of the Personal Wireless Facility Site, shall be at least the distance equal to the maximum height of the Tower, but not less than the otherwise applicable minimum yard requirement in the zoning district.
- 3.10.6.6 The center point of any Personal Wireless Tower at its base shall be separated from any existing residential BUILDING by a horizontal distance that is at least twice the maximum height of the Tower, unless the residential BUILDING and the Facility are located on the same LOT.
- 3.10.6.7 The Equipment Compound or Shelter shall be located in the immediate vicinity of the base of the Tower.
- 3.10.6.8 Any Personal Wireless Tower shall be designed to accommodate the maximum feasible number of users.
 - a) The Planning Board may require the employment of all available technologies and antenna arrangements to minimize vertical space consumption, and require sufficient room and structural capacity for all necessary cables and antennae.
 - b) The Planning Board may require the owner of such Tower to permit other Providers to Co-locate equipment on such Facility upon payment of a reasonable charge, which shall be determined by the Planning Board if the parties cannot agree.
 - c) The Planning Board may require that the equipment of all users of a Tower shall be subject to rearrangement on the Tower or in the Equipment Compound or Shelter if so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. This may result in different vertical Antennae locations, reduced vertical separation of Antennae, and changes of Antenna arrangements.
 - d) The Planning Board may require that the equipment of all users on a Tower shall be subject to relocation to another nearby Tower if so directed by the Planning Board at a later time in its effort to maximize Co-location of Carriers. It may then order the removal of a Tower after the relocation is completed.
 - e) The Planning Board may require long-term easements, leases, licenses, or other enforceable legal instruments that fully support a Personal Wireless Tower at its

maximum potential technical capacity, including sufficient space for Facility base equipment to accommodate the maximum number of technically feasible Co-locators at the Site, adequate access and utility easements to the Tower from a public STREET, and the right for the maximum number of technically feasible Personal Wireless Service Co-locators to Co-locate on the Tower and to upgrade the utilities and equipment as needed for maintaining and improving service and capacity.

- 3.10.6.9 Fencing shall be provided to control unauthorized entry into the Equipment Compound and to the Tower. The Planning Board shall require suitable fencing and landscape screening to shield the installation from the view of nearby residences or ways.
- 3.10.6.10 In the alternative, the Planning Board may require that all ground equipment must be placed inside a BUILDING where the Planning Board finds that a screened fenced-in compound does not adequately address reasonable and legitimate aesthetic concerns. In such cases, the Planning Board shall have the power under the special permit to regulate the size, shape, and exterior appearance of the BUILDING.
- 3.10.6.11 A Personal Wireless Tower approved hereunder shall be used only for the transmission of signals for personal wireless communication services, except with the specific authorization of the Planning Board.
- a) The Planning Board may approve or require the installation of transmission devices owned, operated, or used by the Town of Acton or any of its agencies.
 - b) The Planning Board may also approve the installation of communication devices by entities other than Personal Wireless Service Carriers, provided that they do not interfere with the Personal Wireless Services and that the intent of this Bylaw to maximize Co-location of Personal Wireless Service Providers is not compromised.
 - c) Any transmission equipment by Non-Personal Wireless Service operators on a Tower shall only be allowed as additional and incidental Co-locators on the same Tower with Personal Wireless Service Carriers.
- 3.10.6.12 The Planning Board shall in its special permit make adequate provisions for the removal of the Tower and Facility after its USE for Personal Wireless Services has ended. It shall require that the Facility location shall be restored to pre-existing conditions as much as is reasonably possible so that no traces of the Facility, including foundation, gravel pads, and driveways, remain visible above ground, and that the location be otherwise stabilized and naturalized as appropriate for particular Site.
- 3.10.6.13 The Planning Board shall require a monitoring protocol to ensure that the Facility remains in compliance with radio frequency radiation (RFR) emission limits as set forth from time to time by the Federal Communications Commission (FCC) and other governmental bodies having jurisdiction now or in the future, and to ensure the structural safety and integrity of the Tower and the equipment mounted on the Tower, and Tower and Site security.
- a) The protocol shall require inspections at least every two years and each time when a Provider replaces or repairs equipment on the Tower.
 - b) The inspections shall be conducted by professional engineers (P.E.) with relevant experience in their respective fields.

- c) Inspection reports shall be certified and stamped by the authoring P.E. and submitted promptly to the Building Commissioner.
- 3.10.6.14 The Planning Board may limit the number of Towers on a Site to one, or to any other number it deems necessary and appropriate for the Site. Multiple Towers on a single Site shall be separate from one another by at least 40 feet measured between the center points at the Towers' bases.
- 3.10.6.15 The Special Permit application for a Personal Wireless Facility shall be accompanied by a plan showing the Facility location in relation to the boundary lines of the Facility Site and all BUILDINGS within 500 feet, and plans for the installation or construction of the Facility adequate to show compliance with the provisions of this Bylaw, and such supplemental information as may be required by the Planning Board in the Rules and Regulations for a Special Permit for Personal Wireless Facilities. The application shall also include maps showing areas where the proposed top of the Facility will be visible when there is foliage and when there is not.
- 3.10.6.16 Mandatory Findings – The Planning Board shall not issue a special permit for a Wireless Communication Facility unless it finds that the Facility:
 - a) is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, s.11;
 - b) *(Add finding(s) as to adequate capacity, adequate coverage, and significant gap as appropriate).*
 - c) cannot for technical or physical reasons be located on an existing Wireless Communication Facility or Tower that provides similar coverage;
 - d) cannot be located at any other practicably available site that is less visible to the general public due to technical requirements, topography, or other unique circumstances. The applicant shall have the burden of showing what alternative sites it considered and why such sites are not practicably available;
 - e) is not designed and constructed any larger or higher than the minimum height and size necessary to accommodate its anticipated future USE and cannot be further reduced in height due to technical requirements, topography or other unique circumstances;
 - f) is sited in such a manner that it is suitably screened and, to the extent possible, not visible from residential BUILDINGS or public STREETS within 500 feet;
 - g) is colored so that it will as much as possible blend in with its surroundings when viewed from residential BUILDINGS or public STREETS within 500 feet;
 - h) is designed to accommodate the maximum number of users technologically feasible;
 - i) is necessary because there is no other Facility with available space or capacity, or within the targeted coverage area;
 - j) is in compliance with applicable Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health regulations;
 - k) complies with all applicable requirements of this Bylaw, including Section 10.3.
- 3.10.6.17 The Planning Board under its special permit authority may waive one or more requirements of this section 3.10.6 and its subsections, and it may grant a waiver from the use restrictions contained in Section 3.4.10 of the Table of Principal Uses, where the Board finds that the relief is necessary to avoid an effective prohibition of Personal Wireless Services in Acton, including effective prohibition of meeting

reasonable customer demand for service and effective prohibition of competition between Carriers.

- a) Any request for such waivers shall be supported by the submittal of a study prepared by a qualified technical consultant showing a significant gap in coverage, and overwhelming evidence that no land or site is available that meets the otherwise applicable requirements.
- b) In granting such a waiver or waivers, the Planning Board must find that the extent of the granted relief is mitigated by a showing that the project provides a minimally intrusive viable means of reducing or eliminating such significant gap in coverage, and that the desired relief may be granted without substantial detriment to the neighborhood and without denigrating from the intent and purpose of this Bylaw.
- c) However, the Board shall not grant relief from the maximum height limitation in subsection 3.10.6.2.
- d) The Board shall be empowered hereunder to grant relief from any setback requirements in subsections 3.10.6.5 or 3.10.6.6 provided that the Site proposed is demonstrated to be necessary to achieve adequate coverage or capacity and to be minimally intrusive upon the interests of the Town, consistent with sections 3.10.1 – Purpose, and its subsections.
- e) The applicant shall provide the Board with a written statement describing why the requested relief is in the best interest of the Town with reference to section 3.10.1 – Purpose, and its subsections.

, or take any other action relative thereto.

SUMMARY

The one-year moratorium on new wireless communication facilities ends on April 15, 2008. This article, if adopted, would replace the currently suspended section 3.10 (Special Requirements for Wireless Communication Facilities) and section 3.11 (the moratorium). The proposed replacement section 3.10 was developed by the WCFBSC.....

Direct inquiries to: Roland Bartl, AICP, Town Planner – planning@acton-ma.gov/(978) 264-9636
Selectman assigned:

Board of Selectmen:

Finance Committee:

Planning Board:

DRAFT ARTICLE G

(Two-thirds vote)

AMEND ZONING BYLAW

CORRECTIONS, CLARIFICATIONS AND MINOR AMENDMENTS

To see if the Town will vote to amend the zoning bylaw as follows.

- A. In section 11, Enforcement, add the following sentences to the lead paragraph of subsection 11.1:

“In the event of an extended vacancy of the Building Commissioner position, the Town Manager may for any necessary time period appoint, hire and appoint, or contract with and appoint, another person to act as Zoning Enforcement Officer or Interim Zoning Enforcement Officer apart from the Building Commissioner. In such event and for any such appointment period, the title Building Commissioner, wherever used in this Bylaw, shall mean Zoning Enforcement Officer or Interim Zoning Enforcement Officer, and the person so appointed shall have the same enforcement function, duties, and authority under this Bylaw as the Building Commissioner.”

[Note: The lead paragraph of section 11.1 currently reads:

11.1 The Building Commissioner of the Town of Acton is hereby designated as the officer charged with the enforcement of this Bylaw.]

- B. In section 3, Table of Principal Uses, change the entry in column “NAV”, and line “3.3.3 - Two-Family Dwelling” from N to Y.

, or take any other action relative thereto.

SUMMARY

This article makes housekeeping changes:

Part A will provide for an alternative to the Building Commissioner to act as the enforcement officer of the zoning bylaw. The recent departure of a long term Building Commissioner has made apparent the need for this change.

Part B would allow 2-family dwellings in the North Acton Village district. This change will treat this land use category equally in all of Acton’s village zoning districts.

Part C

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Board of Selectmen:

Finance Committee:

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